

COMMENTS

The enclosed is responsive to the Examiner's Office Action mailed on 12/28/07 and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner mailed the Office Action claims 1-8, 10-18, 20-28 and 30 were rejected. In response the Applicant has neither amended, canceled or added any claims. As such claims 1-8, 10-18, 20-28 and 30 remain pending. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1-8, 10-18, 20-28 and 30.

The Examiner has rejected independent claims 1, 11 and 21 under 35 USC 102(b) as being anticipated by U.S. Pat. No. 6,070,190 (hereinafter, "Reps"). The figure below depicts Fig. 2 of the Applicant's specification.

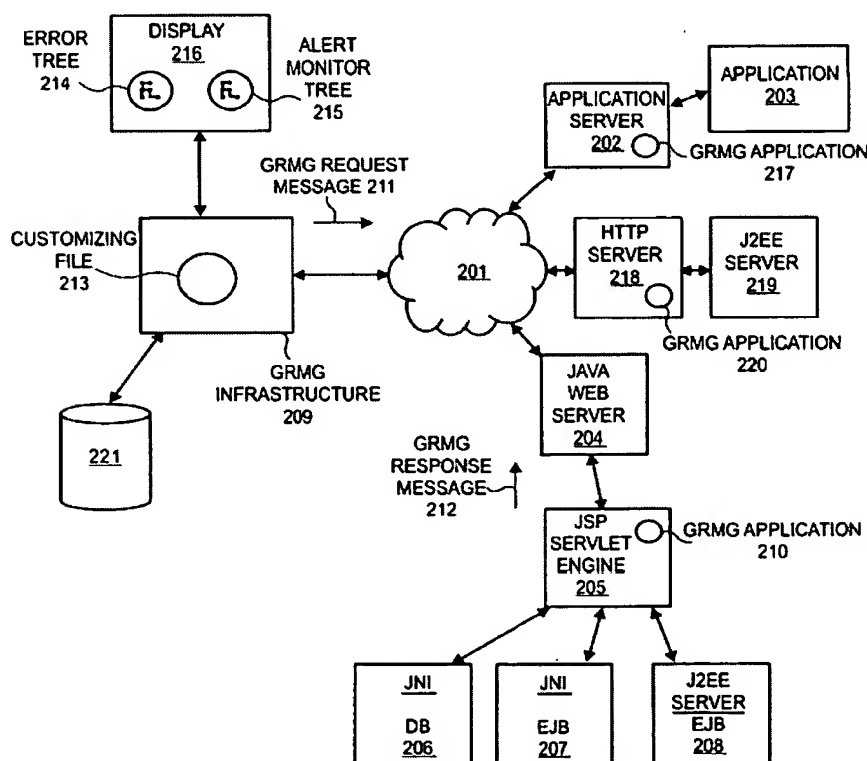


FIG. 2

Notably there is a GRMG infrastructure 209 and GRMG applications 217, 220 and 210. The GRMG infrastructure 209 acts a centralized control body that repeatedly sends requests across network 201 to each of GRMG applications 217, 220 and 210. The GRMG applications 217, 220 and 210 are localized testing applications that, in response to requests sent by the GRMG infrastructure, will test locally reachable software (e.g., proximate or local software). Thus, for instance, in response to a request received from the GRMG infrastructure 209, GRMG application 217 will test software associated with application server 202. Likewise, in response to another request from the GRMG infrastructure 209 that is received at GRMG application 220, the GRMG application 220 will administer a test to software associated with HTTP server 218 and/or J2EE server 219. Finally, in response to another request from the GRMG infrastructure 209 that is received at GRMG application 210, the GRMG application 210 will administer a test to software associated with JSP servlet engine 205.

The thought behind this design is that a complex business logic process that uses different software applications from across different systems (such as software from each of systems 202, 218, 219 and 205) can be tested as such. That is, the availability of the business logic process as a whole can be tested by monitoring the availability of the different components of software that it is comprised of even if the different components are spread out across multiple systems. The Examiner is referred to paragraphs [0033] to [0036], [0039] and [0040] of the Applicant's specification for more details.

With this overview having been provided, the Examiner is now directed to the claim elements of the Applicant's independent claims which recite (emphasis added):

repeatedly receiving request messages at a testing application running on a server or servlet engine, said repeatedly receiving occurring during execution of a testing scenario, each of said request messages identifying the same set of software components that are: a) servable and/or invocable by said server or servlet engine; b) associated with the same said testing scenario; and, c) **used by a same business logic process within an IS infrastructure**; and,

said testing application, in response to each of said request messages in executing said testing scenario, performing the following:

testing each of said one or more software components for availability and

preparing and sending onto a network a response message to report availability or unavailability for each of said one or more software components to an entity that sent said response message's corresponding request message, wherein, at least one of said software components requires a login procedure for its availability test and each of said request messages include a userid for said login procedure.

The Examiner's attention is directed to the fact that one of GRMG applications 217, 220, 210, rather than the GRMG infrastructure 209, represents an embodiment of the claimed subject matter. For instance: 1) a GRMG application's reception of the requests from the GRMG infrastructure 209 embody the first portion of emphasized claim language above; 2) the fact that the tested software for a particular request is associated with the same business logic process is represented in the second portion of emphasized claim language above; and, 3) a GRMG application's response to the request sent by the GRMG infrastructure embodies the third portion of emphasized claim language above.

The Examiner has cited Reps as covering the Applicant's claim elements. However, the Reps reference is incapable of anticipating the Applicants claimed subject matter because the Reps approach does not include "repeatedly receiving request messages at a testing application running on a server or servlet engine"

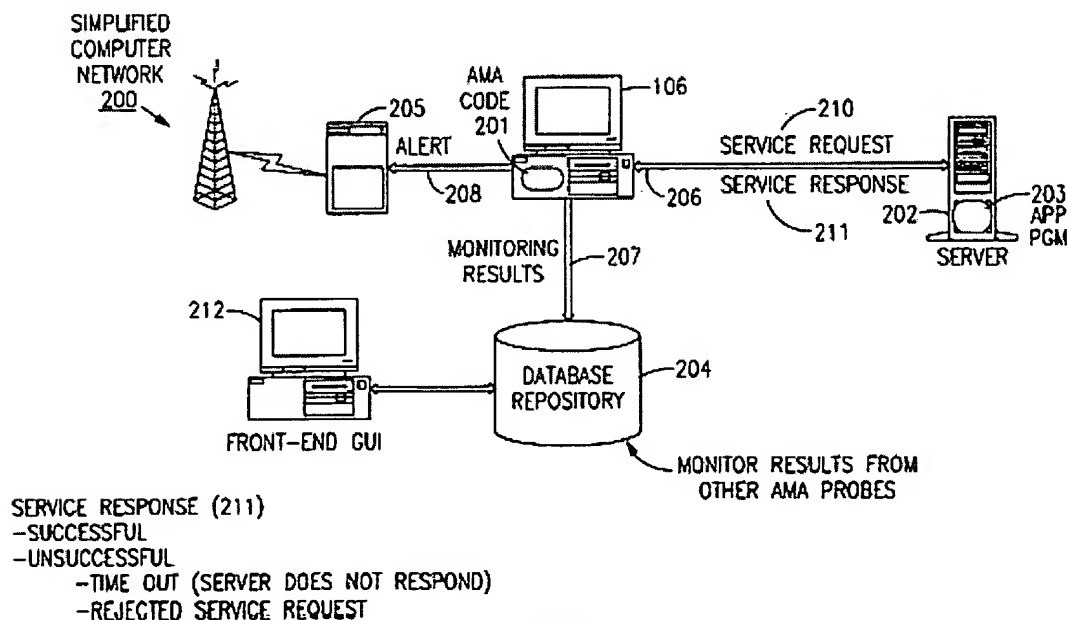


FIG. 2

As the Applicant explained above in reference to the Applicant's specification, each of the GRMG applications 217, 210 and 220 are **testing applications** in the sense that they are application software that apply availability tests to other, proximately located software. The server 203 of Reps **does not contain a testing application**. Rather, computer 106 - which does appear to contain a testing application - simply invokes regular (i.e., not testing) applications on server 203 by sending standard requests to these regular applications. The testing application running **on computer 106** monitors the performance response of the applications on server 203 to which requests were sent. Thus there is no specialized software **on server 203** for testing. Therefore, server 203 does not "repeatedly [receive] request messages at a **testing application** running on [the] server". The following excerpt from the Summary of Reps is illustrative

In an embodiment of the invention, a computer network includes a server computer having an application program which provides application services to a coupled client computer system wherein the client computer system records information related to the performance of the services of the application program via an application probe software residing on the client computer.

A set of parameters or probe configuration information are established at the client computer system for use in recording the performance of the application program. The client computer probe is configured in accordance with these parameters to send service requests to the server computer to request the performance of the application services by the application program.

Correspondingly, the server computer generates a service response which may be an indication that the request is being serviced (a successful response), or which may indicate that the request was rejected (an unsuccessful response), or alternatively, the response may in fact equate to no response from the server system for a pre-defined timeout period (an unsuccessful response).

Based upon the response that has been received, a transaction record including information related to the performance of the application services by the application program is generated at the client computer.

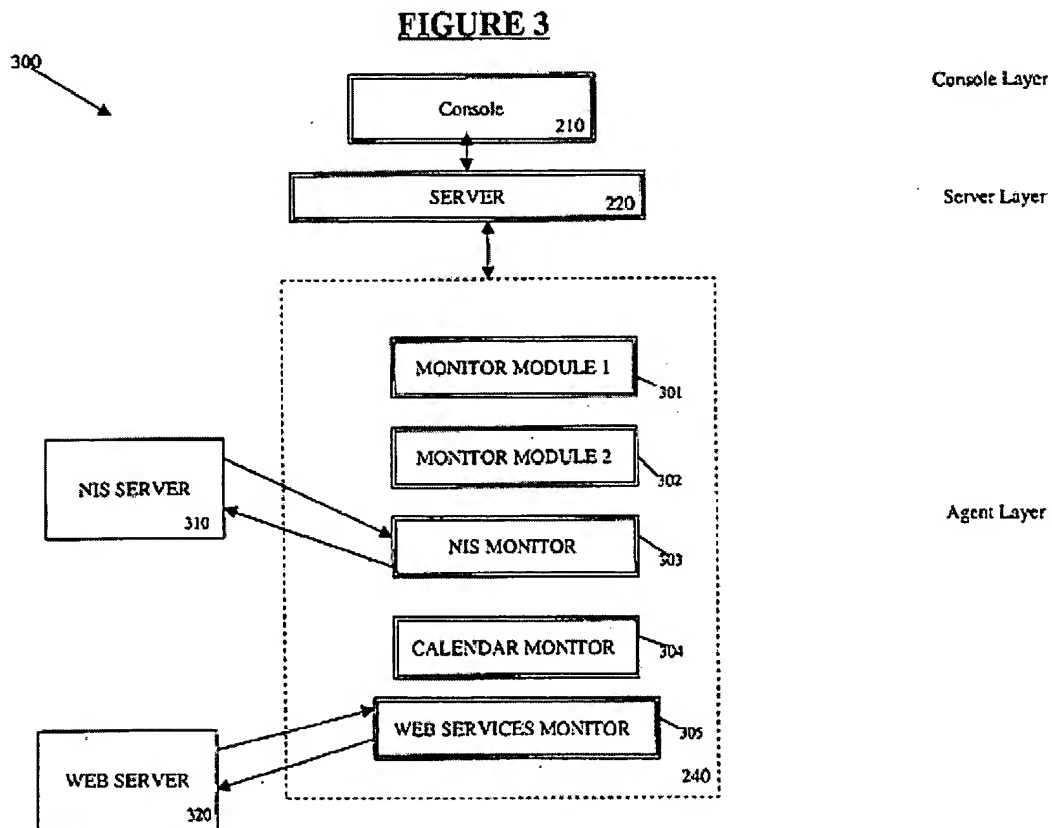
Reps, col. 5, lines 17-42.

Note that the probe software running on the client computer (i.e., computer 106) also fails to cover to the claimed subject matter, not only because it is not a server but also

because it does not repeatedly receive requests (it only repeatedly sends requests). Thus the Applicant respectfully submits that the Reps reference is incapable of covering all of the Applicant's claim elements for independent claims 1, 11 and 21.

The Naganathan Reference

U.S. Pub. Pat. No. 2004/0139194 (hereinafter, "Naganathan") has been cited in related application No. [cite P054]. Fig. 3 of Naganathan is presented below.



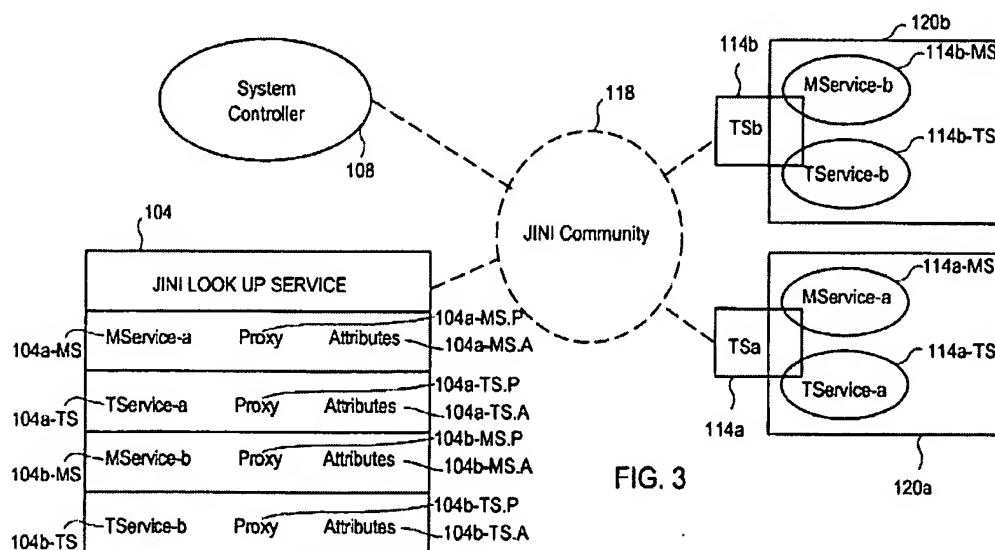
As the Applicant understands Naganathan, the monitors or modules at the agent layer are more like the Applicant's GRMG applications. That is, they are testing applications that test locally reachable software. Moreover, they receive configuration information - conceivably over a network - from console 210 and server 220 that defines the testing

parameters. However, the Applicant does not believe the console 210 and server 220 act to

repeatedly send requests to the testing modules/monitors that cause the testing modules to invoke corresponding inquiries into the availability of locally reachable software. Instead, the monitors/modules by themselves cause such inquiries to be repeatedly made. See, Naganathan, para. [0044] ("In one embodiment of the present invention, the modules 301-305 are user loadable and they send periodic requests to the various services, which may be running locally or remotely, that a user wishes to monitor . . .").

The Zhang Reference

The Zhang reference has been cited in related application No. [cite P056]. As the Fig. 3 of Zhang is provided below.



Here, a testing controller 108 appears to be coupled to testing applications 114a-TS and 113b-TS through a network. However, Zhang appears to fail to discuss how log-in procedures are handled. The Applicant's claims recite that userid log-in information is contained in the request messages themselves which is a feature Zhang simply fails to disclose. Thus, the enclosed are claims are allowable over Zhang for at least this reason.

The Applicant respectfully submits that the claims of the present application are allowable against pertinent references and respectfully requests the allowance of all claims.

In the further interests of efficiency, the Applicant reserves the right under MPEP 2144.03.C to cause the Examiner to find in the prior art subject matter to which the Examiner has taken Official Notice at a later time in the prosecution of the present case when the subject matter of such prior art is actually at issue.

REMARKS

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully submitted,

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Dated: March 28, 2008

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